

STEVEN A. WUTHRICH (6055)  
 HEATHER WAITE GROVER (10991)  
 Assistant Attorney General  
 SEAN D. REYES (7969)  
 Utah Attorney General  
 5272 S College Dr. Suite 200  
 Murray, Utah 84123  
 Telephone: (801) 281-1200  
 E-mail: swuthrich@agutah.gov  
 heathergrover@agutah.gov

*Attorneys for Plaintiff*

3RD DISTRICT COURT SALT LAKE COUNTY, STATE OF UTAH	
STATE OF UTAH,  <p style="text-align: center;">Plaintiff,</p> v.  <b>TIFFANY C. MERCER MCCLAIN</b> DOB: 12/06/1981 15238 S. TALL WOODS DRIVE DRAPER, UT 84020  <p style="text-align: center;">Defendant.</p>	<b>INFORMATION</b> (Summons)  <b>(Notice of forfeiture)</b>  Case No. 231910202  Judge: Mark Kouris

The undersigned, Special Agent C. Butler of the Utah Attorney General’s Office, states on information and belief that **TIFFANY C. MERCER MCCLAIN**, either directly or as a party to the offenses, committed the following crimes:

**COUNT 1 - PATTERN OF UNLAWFULL ACTIVITY- SECOND DEGREE FELONY**, U.C.A. §§ 76-10-1603, 1602, (1), (2), (4)(kk), 76-10-1603.5(1), On or about and between January 27, 2023 and August 1, 2023, in the County of Salt Lake, State of Utah, the defendant, **TIFFANY MERCER MCCLAIN** (hereinafter “Defendant”), did:

- (1) receive proceeds derived, whether directly or indirectly, from a pattern of unlawful activity in which the person has participated as a principal, to use or invest, directly or indirectly, any part of that income, or the proceeds of the income, or the proceeds

derived from the investment or use of those proceeds, in the acquisition of any interest in, or the establishment or operation of, any enterprise; and/or

- (2) through a pattern of unlawful activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise, to wit: Cosmic. Co. an unregistered d/b/a according to the records of the Utah State Department of Corporations; and/or
- (3) become employed by or associated with said enterprise to conduct or participate, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity, and/or
- (4) conspired with co-defendant Ryan McCain to violate any provision of Subsection (1), (2), or (3).

**NOTICE OF INTENT TO SEEK ADDITIONAL REMEDIES.** Upon conviction under this section the State of Utah will seek additional remedies pursuant to U.C.A. § 76-10-1603.5, including but not limited to, requiring the defendant to notify each and every victim or customer who purchased DVDs from him between August 6, 2021 to August 1, 2023 and to whom he sent counterfeit DVDs and additionally to provide the Court with information that would enable said victims to seek restitution in this matter.

**COUNT 2 - COMMUNICATIONS FRAUD-SECOND DEGREE FELONY-U.C.A. §§76-10-1801(1) (d), (2),** On or about and between January 27, 2023 and August 1, 2023, in the County of Salt Lake, State of Utah, the defendant intentionally or knowingly devised any scheme or artifice to defraud another or to obtain from another money, property, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions, and who communicates directly or indirectly with any person by any means for the purpose of executing or concealing the scheme or artifice where the total value of all property, money, or things obtained or sought to be obtained by the scheme exceeds \$5,000.00.

**COUNT 3 - MONEY LAUNDERING-SECOND DEGREE FELONY U.C.A. §§ 76-10-1903, 1904(1),** On or about and between January 27, 2023 and August 1, 2023, in the County of Salt Lake, State of Utah, the defendant intentionally, knowingly or recklessly did:

- (a) transport, receive, or acquire the property which is in fact proceeds of the specified unlawful activity, knowing that the property involved represents the proceeds of some form of unlawful activity;
- (b) make proceeds of unlawful activity available to another by transaction, transportation, or other means, knowing that the proceeds are intended to be used for the purpose of continuing or furthering the commission of specified unlawful activity;
- (c) conduct a transaction knowing the property involved in the transaction represents the proceeds of some form of unlawful activity with the intent:
  - (i) to promote the unlawful activity;
  - (ii) to conceal or disguise the nature, location, source, ownership, or control of the property; or

(iii) to avoid a transaction reporting requirement under this chapter or under federal law.

THIS INFORMATION IS BASED ON EVIDENCE OBTAINED FROM THE FOLLOWING WITNESSES: S.A. C. Butler, S.A. A. Draney, S.A. M. Johnson, S.S.A. J. Russell, Inspector Dimick, Zach Hayes, and Christian Hardman, Representatives from the Motion Picture Assoc. as necessary.

**DECLARATION OF PROBABLE CAUSE:**

1. I, Special Agent C. Butler, am a certified Police Officer in the State of Utah and have received training and certification through the Utah Peace Officer's Standards and Training Academy. I have over 4 years of experience as a certified Law Enforcement Officer. I am currently assigned as a Detective with the West Jordan Police Department Street Crimes Unit and tasked with investigating crimes involving drug-related offenses, fraud, theft, gambling, and burglary. I am also assigned to the Utah Attorney General's Office Crimes Against Statewide Economy (C.A.S.E.) Task Force with the responsibility of investigating economic crimes in the State of Utah.
2. Agents with the C.A.S.E. Task Force received information from eBay referencing an eBay account under the username "aspewolfmnt" that was selling presumably counterfeit DVDs. I spoke with eBay investigator Christian Hardman who provided registration information for the account. The account was registered by Ryan McClain with the company name "Red Rock Restore." Investigation into the sales activity of Mr. McClain led me to another account registered with Defendant.
3. Defendant registered an account with Ebay under the account name "cosmiccollectionsco" and listed the account's address as 15238 South Tall Woods Dr., Draper, Utah 84020-5742 on or about January 27, 2023.
4. Before registering for an account with eBay, Defendant must agree to their terms and conditions which include a prohibition against selling counterfeit items on their website.
5. I was able to locate a previous police report taken by former Special Agent Pepper with the Utah Attorney General's Office. This police report was documented under case AG18-402. According to this report, Tiffany Mercer McClain, and her husband, Ryan McClain were suspected of selling counterfeit DVDs using several different eBay accounts: t.g.shop, housenobel, and maddashtreasure. Account t.g.shop was registered by T. Mercer, housenobel was registered by T. McClain, and maddashtreasure was registered by F.E. with contact information for Defendant. eBay had previously sent Ryan McClain a notice that they believed his DVDs were counterfeit and requested proof of purchase. Ryan McClain responded with an invoice that Special Agent Pepper described as "fraudulent." The accounts were nonetheless suspended by eBay forcing the case to be closed out. Thus, at that time, Special Agent Pepper

was unable to verify if the DVDs were counterfeit.

6. eBay investigators provided me with sales data for the eBay account named “cosmiccollectionco” which was associated with Defendant. This account included sales of 2,822 DVD’s as of 5/21/23. The total revenue at the time of analysis totaled approximately \$36,073.19 in sales. This computes to slightly over 12 dollars per DVD, well below market price. The account was changed to “beefinity,” and by 7/12/23, Defendant had sold a total of 4,139 DVDs for \$54,559.88 or \$13.18 average per DVD. The bank accounts revealed large purchases from a Chinese wholesale website named DHGate. I contacted the Motion Picture Association who advised that counterfeit DVDs were generally created in China and not the US.
7. I received information from Inspector Dimick, who is employed by the United States Postal Inspection Services, that Defendant’s husband was dropping off large quantities of media mail at the USPS post office in Draper, Utah. On 05/18/2023, Inspector Dimick observed Ryan McClain arrive at the Draper Post Office and drop off “over 100 DVD shipments.”
8. Inspector Dimick was able to photograph a package that Ryan McClain dropped off with a shipping label that was different from packages than he had previously dropped off. Inspector Dimick believed it may be from a different eBay account than Defendant had previously used. I sent the tracking information to eBay investigator Zach Hayes who reported the package was from an account under the name of “cosmiccollectionco.” I placed a request for registration information for this account and received information back a short time later. The account was registered by Defendant.
9. I authored several search warrants for Defendant’s and her husband’s bank account history. An analysis of their bank accounts (J.P.Morgan Chase, Zions Bank, America First Credit Union) indicated they were receiving regular income from PayPal or eBay deposits. I know from training and experience that PayPal used to be eBay’s primary payment system until it was replaced by direct payments from eBay to the seller. These accounts showed numerous expenses being paid from the accounts for the DVD sales operation, including shipping, packaging, and purchasing of covers.
10. On 08/01/2023, I served a residential search warrant #2694851 on Defendant’s residence located at 15238 South Tall Woods Drive, Draper, Utah. Officers seized approximately 2,836 DVDs pre-packaged for sale, multiple shipping packages, and invoices from Chinese distributors such as DHGate and DVDFreedom.com.
11. A review of Defendant’s bank account information reflects no outside source payments except from the DVD sales. Operational expenses, such as shipping containers, shipping and associated materials, were paid from these accounts.
12. Warrants were served for the account balances and monies received will be placed in a

segregated interest-bearing account maintained by the Utah Attorney General's Office for forfeiture funds.

13. A notice of intent to forfeit was sent via certified mail on August 29, 2023, to Defendant and her husband.
14. Forty-six of the seized DVDs were sent to the Motion Picture Association for review. One disk was cracked and untestable, forty-five DVDs were counterfeit.

**NOTICE OF FORFEITURE.** Pursuant to U.C.A. §77-11b-101 *et seq.*, notice is hereby given that the State intends to forfeit the bank account proceeds in the accounts set forth below as the proceeds of illegal activity and specifically as proceeds of selling counterfeit materials in violation of U.C.A. § 76-6-518:

- Funds Frozen at JP Morgan Chase approx.: \$33,671.25
- Funds Frozen at America First Credit Union approx.: \$1,034.27
- Funds Frozen at Zions Bank \$11.15

All the seized DVDs will be retained and disposed of as contraband.

Pursuant to Utah Code Ann. § 78B-18a-106 (2018), I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Executed: September 27, 2023.

/s/ C. Butler

S.A. C. Butler

Declarant

*Electronically signed with permission from C. Butler on September 27, 2023, at 4:04 pm.*

Authorized for presentment and filing:

SEAN D. REYES,  
Utah Attorney General

/s/ Steven A. Wuthrich

STEVEN A. WUTHRICH

Assistant Attorney General

DATED: September 28, 2023.